

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREGORY T. DARDEN,)
Petitioner,)
vs.)
D. K. SISTO, et al,)
Respondents.)

No. C 07-0211 JSW (PR)

ORDER OF DISMISSAL

Plaintiff, an inmate incarcerated at the California Medical Facility in Vacaville, California, has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition is completely unintelligible and does not assert a basis for either jurisdiction in this venue or a legitimate habeas corpus claim. Therefore, Plaintiff's petition is DISMISSED.

DISCUSSION

A. Standard of Review

A person in custody pursuant to the judgment of a state court can obtain a federal writ of habeas corpus only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States. 28 U.S.C. § 2254(a). In other words, a writ of habeas corpus is available under § 2254(a) "only on the basis of some transgression of federal law binding on the state courts." *Middleton v. Cupp*, 768 F.2d 1083, 1085 (9th Cir. 1985) (citing *Engle v. Isaac*, 456 U.S. 107, 119 (1982)), cert. denied, 478 U.S. 1021 (1986). Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently

1 frivolous or false. *See Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990).

2 B. Petitioner's Claims

3 In this case, Petitioner's allegations appear to allege some type of "involuntary
4 bankruptcy" and are completely incomprehensible and possibly delusional. The
5 petition fails to set forth any comprehensible allegations from which the Court can
6 discern a legitimate legal basis for a habeas corpus petition. For example, in the
7 section of the form petition that asks Petitioner to include grounds for relief, Petitioner
8 has listed as Claim One:

9 Petitioner having multi-Petitions for Redress of Grievance issued to
10 agents of the STATE OF CALIFORNIA, exhaust State remedies, and
11 STATE AGENTS dishonors, defaults, and Failure to deny Averments,
does admit by Tacit Procuration and Stare Decisis of distinction of
Stramineus Homo DEBTOR and the flesh and blood Secured Party.

12 Similarly, Claim Two states that "[s]tate Agents has claim[ed] Petitioner/Secured Party
13 exemptions into a secret budget by placing an TIN and NAME on an account in
14 deficit [sic] using Petitioner for "Sureties" via Bid, Prison and Penal Bonds; . . ."

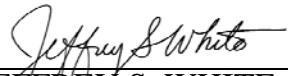
15 A claim is frivolous if it is premised on an indisputably meritless legal theory or
16 is clearly lacking any factual basis. *See Neitzke v. Williams*, 490 U.S. 319, 327 (1989).
17 A claim that is totally incomprehensible may be dismissed as frivolous as it is without
18 an arguable basis in law. *See Jackson v. Arizona*, 885 F.2d 639, 641 (9th Cir. 1989).
19 Because the Court is unable to ascertain a cognizable federal claim from Plaintiff's
20 incomprehensible complaint, it is dismissed as frivolous.

21 **CONCLUSION**

22 For the forgoing reasons, Plaintiff's complaint is hereby DISMISSED for the
23 reasons set forth above. The Clerk shall close the file and enter judgment in this case.

24 IT IS SO ORDERED.

25 DATED: January 31, 2007


26 JEFFREY S. WHITE
27 United States District Judge